

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2009-3900
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 18, 2008
Wexford County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on [REDACTED]

ISSUE

Did the Department correctly deny the claimant's Family Independence Program (FIP) cash assistance application in October, 2008?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) [REDACTED]

[REDACTED]

[REDACTED]

(2) On this same date, both parties signed the “work and self-sufficiency rules for cash recipients”, DHS-1538, which lists the expectations for receiving cash assistance and specifically indicates that there are penalties for not cooperating with work requirements, which include losing cash assistance. Failure to cooperate with Michigan Works/Jobs, Education and Training (MW/JET) program requirements is a listed example of non-cooperation.

(3) A MW/JET Appointment Notice (DHS-4785) was issued to the claimants on September 15, 2008, setting their orientation with the MW/JET program for September 30, 2008.

(4) [REDACTED]

(5) At this orientation, both parties signed the MW/JET Assignment form. This form indicates that they must participate in the job search or readiness for 8 hours a day, 40 hours a week and turn in daily job search logs. These logs are to be detailed and list the names, addresses and phone numbers of all places contacted for work.

(6) On October 15, 2008, the JET worker terminated claimants from participation at JET because they were not participating as required. They did not turn in daily job search logs and took one day off from job searching without permission to do so.

(7) [REDACTED]

(8) On October 23, 2008, a hearing request was received from claimant, [REDACTED].

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the

FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy states:

DEPARTMENT PHILOSOPHY

FIP

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

DEPARTMENT POLICY

FIP

A Work Eligible Individual (WEI), see PEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

See PEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see PEM 233C. PEM 233A, p. 1.

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

Failing or refusing to:

- .. Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.
- .. Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
- .. Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).
- .. Comply with activities assigned to on the Family Self-Sufficiency Plan (FSSP) or PRPFC.
- .. Appear for a scheduled appointment or meeting.
- .. Participate in employment and/or self-sufficiency-related activities.
- .. Accept a job referral.
- .. Complete a job application.
- .. Appear for a job interview (see the exception below).
- . Stating orally or in writing a definite intent not to comply with program requirements.
- . Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- . Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. PEM 233A, pp. 1-2.

Work and Self-Sufficiency Rules

Use the DHS-1538, Work and Self-Sufficiency Rules to explain all of the following to clients at FIP application:

Provide a brief overview of the Work and Self-Sufficiency Rules, once, for each episode of assistance. At a minimum explain direct support services opportunities, work requirements, self-sufficiency

requirements, penalties for non-compliance, transportation, child care, earnings or activity reporting and verification requirements, and domestic violence.

The DHS-1538 must be reviewed and signed by all adult applicants and member adds including:

- . Minor parent grantees.
- . Adult member adds.
- . Dependent children age 16 or 17 who are not attending elementary or secondary school full time.
- . Ineligible grantees.

Note: Mail the DHS-1538 to 16 and 17 year old dependent children for completion rather than requiring a signature in person. The grantee is ultimately responsible for the child's compliance. PEM 229, pp. 1-2.

Timing of JET Referral

Mandatory JET clients must be sent to JET upon application for FIP. Do not send any others to JET at application, unless a deferred client volunteers to participate. All JET referrals must be sent through ASSIST. ASSIST will generate an automated DHS-2439, Michigan Works Referral to the Michigan Works! Agency's (MWA's) Management Information System (MIS) upon completion of the initial interview in ASSIST. Clients can reapply for FIP at any time after their application is denied for failing to appear or participate with JET.

FAST and FSSP Notice

All clients including mandatory JET participants will receive an automated notice upon completion of the initial interview in ASSIST.

JET Appointment Notice and JET Attendance Requirements

Exception: Use the DHS-4785, JET Appointment Notice at **application** to schedule an appointment for each mandatory JET participant. Include the date, time and location to appear for their JET assignment. When assigned, clients must engage in and comply with all JET assignments while the FIP application is pending. JET engagement is a condition of FIP eligibility. PEM 229, p. 2.

Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits, if upon the day of case processing the client is in noncompliance with JET. Use ASSIST denial code 463 and CIMS denial code 210 for clients denied FIP benefits for noncompliance while the application is pending. Retain a copy of the appointment notice in the case record. Do not penalize Food Assistance when a client fails to attend JET as a condition of eligibility when the noncompliant person is not active FIP on the date of the noncompliance. Clients must be active FIP to apply a FIP penalty to the FAP case.

Exception: You must manually provide ineligible grantees and Disqualified Aliens a DHS-1535, FAST Notice, at intake or at review if not completed during the intake process. Enter the FAST notice date on the Family Self-Sufficiency Plan (FSSP) for tracking purposes. PEM 229, p. 2.

The claimant and her partner were determined to be mandatory MW/JET participants. The claimant and her partner signed the “Work and Self-Sufficiency Rules for Cash Recipients” which provided notice of the requirements for participation in MW/JET and the penalties for not complying with the work requirements. A client must engage in and comply with all MW/JET assignments while the FIP application is pending as JET engagement is a condition of FIP eligibility. PEM, Item 229.

The claimant and her partner signed the MW/JET assignment sheet on September 30, 2008. This document noticed the requirement to perform job search activities eight hours per day, 40 hours per week. It also required the claimant and her partner to keep detailed job search logs for every day, Monday through Friday, and to turn in those log sheets each day. The claimant and her partner did not dispute that they did not turn in each weekly job search logs and also did not dispute that they took a day off from their job search activities without permission. This is noncompliance with the MW/JET requirements. Noncompliance with MW/JET while the application is pending results in group ineligibility. PEM, Item 233A.

It is noted that [REDACTED] report that she had a medical condition that affected her ability to work and did return both a “Medical Needs” form, DHS-54A and a “Medical Examination Report”, DHS-49. The doctor indicated on these [REDACTED] did not need medical assistance with any personal care activities and that she had no physical or mental limitations. The information provided from the doctor did not support that she could not be involved in MW/JET activities. Thus, claimant and her partner were mandatory MW/JET participants.

Thus, the Department properly denied the claimant’s application for noncompliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department correctly denied the claimants' application for FIP, based on the available information showing non-compliance with MW/JET program requirements.

Accordingly, the Department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 2, 2009

Date Mailed: January 5, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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